

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MATTHEW CARON; et al.,

Plaintiffs,

-against-

ANDREW CUOMO; et al.,

Defendants.

No. 1:13-CV-1211 (GLS/TWD)

**LETTER MOTION TO ADJOURN
THE CASE MANAGEMENT
CONFERENCE BY 30 DAYS**

Plaintiffs, by and through their undersigned counsel, hereby move to adjourn the Case Management Conference by 30 days. In support of this motion, Plaintiffs state as follows:

1. Plaintiffs commenced this action on September 27, 2013.
2. After Plaintiffs filed suit, additional individuals contacted Plaintiffs and expressed their desire to join the case as Plaintiffs. In addition, Plaintiffs were later referred to additional individuals who also sought to join the case as Plaintiffs.
3. The inclusion of these additional parties as Plaintiffs would help to ensure that Plaintiffs have standing to assert their claims, both now and in the future, and hence, Plaintiffs decided that they would attempt to join appropriate individuals. Plaintiffs planned to file an Amended Complaint that would include these additional parties as Plaintiffs, and to then serve that Amended Complaint (in lieu of the original Complaint) on Defendants. In light of these plans, Plaintiffs did not attempt to serve the original Complaint on Defendants.
4. Unfortunately, notwithstanding our best efforts, we have not been able to finalize retention agreements with all of the additional individuals we seek to join. At this juncture, it is no longer possible to file an Amended Complaint and serve it with adequate time to prepare for the Case Management Conference and submit a proposed Case Management Plan.

5. After considering this matter at length, the undersigned counsel feel that the additional retentions can be finalized, and the Amended Complaint filed, no later than December 27, 2013. Prompt service of the Amended Complaint thereafter will provide adequate time to prepare for a Case Management Conference that has been adjourned by 30 days.

6. We apologize for failing to serve the original Complaint within 60 days, as directed by the Court's general order. Counsel read the order when it was first issued, but since we normally serve Complaints promptly, we did not consider the deadline significant. When individuals later contacted us seeking to join the case, we did not recall the 60-day provision of the general order, and instead recalled the 120 days that Fed. R. Civ. P. 4(m) provides. We apologize for this oversight.

7. Notwithstanding this oversight, Defendants have not yet been served, and Plaintiffs submit that neither a 30 day extension nor an amendment of the Complaint will prejudice Defendants. Moreover, the additional individuals who would be added intend to seek relief in their own right, and so amendment (rather than a separate action) would serve the interests of judicial economy.

WHEREFORE, Plaintiffs respectfully move the Court to adjourn the initial Case Management Conference by 30 days to allow them to file and serve an Amended Complaint.

Dated: December 18, 2013

Robert P. Firriolo, Esq.
NDNY Bar Roll No. 518013
BOUTIN & ALTIERI P.L.L.C.
P.O. Box 630
Carmel, New York 10512
Tel: 845.306.7076
Fax: 866.585.9604
rfirriolo@boutinlaw.com

By: /s/ David D. Jensen
David D. Jensen, Esq.
NDNY Bar Roll No. 518218
DAVID JENSEN PLLC
111 John Street, Suite 420
New York, New York 10038
Tel: 212.380.6615
Fax: 917.591.1318
david@djensenpllc.com
Attorneys for Plaintiffs